

AMENDED IN SENATE AUGUST 27, 2001

AMENDED IN SENATE JULY 19, 2001

AMENDED IN SENATE JUNE 28, 2001

AMENDED IN ASSEMBLY APRIL 17, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1679

Introduced by Assembly Member Shelley

February 28, 2001

An act to amend Section 7034 of the Business and Professions Code, relating to contractors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1679, as amended, Shelley. Contractors.

Existing law, the Contractors' State License Law, prohibits a licensed contractor from inserting a provision in a contract that shields the contractor from liability when that provision has been determined to be void or unenforceable.

~~This bill would additionally prohibit a licensed contractor from using employees to perform any work on a contract or act requiring a license unless those employees are solely and exclusively the employees of the contractor or the employees of another licensed contractor responsible for supervising their work. This bill would not apply to employees of a public agency performing work on a public works project. The bill would also make a statement of legislative intent.~~

This bill would additionally provide that a licensed contractor that uses the services of a temporary employment agency, employment

referral service, labor contractor, or other similar entity shall be deemed to be the employer of any individual furnished by those entities for specified purposes relating to compensation, working hours, wages, employee working conditions, public works, workers' compensation, insurance, and employment safety.

Because this bill would require the licensed contractor to comply with certain additional provisions of the Labor Code, the violation of which is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7034 of the Business and Professions
2 Code is amended to read:

3 7034. (a) No contractor who is required to be licensed under
4 this chapter shall insert in any contract, or be a party, with a
5 subcontractor who is licensed under this chapter to any contract
6 which contains, a provision, clause, covenant, or agreement which
7 is void or unenforceable under Section 2782 of the Civil Code.

8 (b) No contractor who is required to be licensed under this
9 chapter shall require a waiver of lien rights from any
10 subcontractor, employee, or supplier in violation of Section 3262
11 of the Civil Code.

12 ~~(c) No contractor who is required to be licensed under this~~
13 ~~chapter shall perform any act or contract that requires a license~~
14 ~~unless all employees performing that work are solely and~~
15 ~~exclusively the employees of the contractor during the time the~~
16 ~~work is performed, or the employees of another licensed~~
17 ~~contractor who is responsible for supervising their work. This~~
18 ~~subdivision shall not apply to employees of a public agency~~
19 ~~performing work on a public works project.~~

20 ~~SEC. 2. It is the intent of the Legislature to require that a~~
21 ~~licensed contractor, rather than a third party who is not responsible~~

1 ~~for supervising the employee, be the sole employer while the~~
2 ~~employee is performing the work that requires a license. It is not~~
3 ~~the intent of the Legislature to preclude a licensed contractor from~~
4 ~~using referral agencies or third parties to perform payroll or other~~
5 ~~administrative functions or to prohibit employees from working~~
6 ~~part-time for multiple employers or to prohibit employees from~~
7 ~~working for multiple employers.~~

8 *(c) When an employee supplied by a temporary employment*
9 *agency, employment referral service, labor contractor, or other*
10 *similar entity, performs any act or contract for which a license is*
11 *required under this chapter, the licensed contractor responsible for*
12 *supervising that employee's work shall, in addition to any other*
13 *obligations imposed by law, be deemed to be the employer of that*
14 *employee for purposes of all of the following portions of the Labor*
15 *Code:*

16 *(1) Part 1 (commencing with Section 200), Part 2*
17 *(commencing with Section 500), and Part 4 (commencing with*
18 *Section 1171) of Division 2.*

19 *(2) Chapter 1 (commencing with Section 1720) of Part 7 of*
20 *Division 2.*

21 *(3) Division 4 (commencing with Section 3200), provided that*
22 *subdivision (d) of Section 3602 shall not apply and that the*
23 *licensed contractor shall individually secure the payment of*
24 *compensation for the employee rather than relying upon an*
25 *agreement with the temporary employment agency, employment*
26 *referral service, labor contractor, or other similar entity that*
27 *supplied the employee.*

28 *(4) Division 5 (commencing with Section 6300).*

29 *SEC. 2. No reimbursement is required by this act pursuant to*
30 *Section 6 of Article XIII B of the California Constitution because*
31 *the only costs that may be incurred by a local agency or school*
32 *district will be incurred because this act creates a new crime or*
33 *infraction, eliminates a crime or infraction, or changes the penalty*
34 *for a crime or infraction, within the meaning of Section 17556 of*
35 *the Government Code, or changes the definition of a crime within*
36 *the meaning of Section 6 of Article XIII B of the California*
37 *Constitution.*